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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,834	12/10/2003	Greg Reagan	B0932.70222US00	6764

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EXAMINER

STASHICK, ANTHONY D

ART UNIT	PAPER NUMBER
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3781

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

NT

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/732,834	REAGAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Anthony Stashick	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-50, 52 and 127-199 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 137-181 is/are allowed.
- 6) ☒ Claim(s) 1-23, 25-49, 127, 128, 131 and 134-136, 182-192, 194-196 and 199 is/are rejected.
- 7) ☒ Claim(s) 24, 50, 129, 130, 132, 133, 193, 197 and 198 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 6, 2006 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 15, 22-23, 25, 27-29, 41, 48-49, 52, 131, 134-135 and 182-184, 187, 192, 194, 196 and 199 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierre et al. 6,467,195 in view of Datson 4,856,207. Pierre et al. '195 teaches the following limitations substantially as claimed: a boot body having a lower region (that portion covering the front top portion of the user's foot seen in Figure 1) adapted to cover a foot of a wearer and an upper region (that portion shown in Figure 1 covering the user's ankle and lower leg region) adapted to cover at least a portion of a shin of the wearer; a first lace having a portion that is disposed in the upper region (see Figure 1); a lace 18 adapted to tighten a first region of the boot; the lace being securable to the upper region (see Figure 1, lace is securable in the upper region at the top of the tongue. Pierre et al. '195 does not teach a second lace and lacing region located in the upper portion of the boot and tightenable in the upper zone of the boot as well as the other limitations of the claims. Datson '207 teaches the following limitations substantially as claimed: a boot

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body having a lower region adapted to cover a foot of a wearer and an upper region adapted to cover at least a portion of a shin of the wearer (see Figure 2); a first lacing zone (lower part with lace 19) comprising a first lace 19 adapted to tighten a first region of the boot, the first lace having a portion that is disposed at the upper region (see Figure 2); and a second lacing zone (that located with lace 18) comprising a second lace 18 adapted to tighten a second region of the boot; both the first lace and the second lace are separately; the first lacing zone comprises a lower lacing zone (see Figure 2 as described above) and wherein the first lace comprises a lower lace 19 that is adapted to tighten the lower region; the second lacing zone comprises an upper lacing zone (see Figure 2 as described above) and wherein the second lace 18 comprises an upper lace that is adapted to tighten the upper region; the first lace and the second lace may be tightened independently (see Figures 2 and 3) to achieve different levels of tightness in the first and second lacing zones; the lower lace comprises a first anchor end (looped end of lace) attached to the boot body (through D-rings) adjacent a toe-area; the second lacing zone comprises an upper lacing zone (that near opening in shoe upper) and wherein the second lace comprises an upper lace 18 that is adapted to tighten the upper region and wherein the upper lace comprises a second anchor end (looped end) attached to the boot body adjacent a shin-area (through D-rings); the boot body includes a rear side (back portion of upper, facing backward), wherein both the first lace and the second lace are securable at the upper region of the boot body forward of the rear side (see Figures 2 and 3, laces are secured at the front of the boot); the boot is a snowboard boot (the boot can be used in the many bindings attaché to snowboards, thereby can be considered a snowboard boot); both the first lace and the second lace are sequentially or simultaneously securable at the location forward of the rear side (see Figures 2 and 3). Datson '207 teaches that it is desirable to have a lace tighten the upper portion of the boot so that the user can selectively tighten the upper to the tightness he so desires. Therefore, it would have been obvious, to one of ordinary skill in the art at the time the invention was made, place a lace in the upper portion of Pierre et al. '195, along with the other teachings of Datson '207, to allow the user to

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independently tighten the upper portion of the boot and the lower portion of the boot to the tightness desired for each portion, which tightness may be different from each other.

4. Claims 4-7, 30-33 and 185-186 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied in paragraph 3 above in view of Borel 5,956,823. The references as applied in paragraph 3 above disclose all the limitations of the claims except for the lace lock and its particulars. Borel '823 teaches that one lace lock 10 can be mounted to the boot body in the upper region thereof (see Figures 1 and 2), the at least one lace lock being adapted to secure at least one of the first and second laces (see Figures 2-4). Borel '823 further teaches that the at least one lace lock 10 comprises a first lace lock 10 adapted to secure the first lace lock and a second lace lock adapted to secure a second lace. Furthermore, Borel '823 teaches that the first and second lace locks comprise lace cleats 32, 33, each cleat comprising a body having opposing walls with locking teeth 34 formed on each wall, the walls converging to form a wedge-shaped channel (see Figure 4), the channel and locking teeth cooperating to hold a portion of the lace within the body of the cleat (see Figure 3). The boot body includes a tongue (that located behind the lace) opening disposed in a shin-to-toe direction and a tongue disposed within the opening, wherein each cleat is mounted to the boot body such that each wedge-shaped channel is substantially parallel to the tongue opening (see Figure 1). These lace locks are applied to the upper of the shoe to aid in holding the shoelace taut during use. Therefore, it would have been obvious, to one of ordinary skill in the art at the time the invention was made, to place lace locks, such as those taught by Borel '823, onto the boot of the references as applied in paragraph 3 above to aid in holding the lace taut during use to prevent accidental removal of the boot.

5. Claims 8, 9, 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied in paragraph 3 above in view of Berger 5,181,331. The references as applied in paragraph 3 above disclose all the limitations of the claims except for the boot body having channels for the laces. Berger '331 teaches that a channel can be formed by a sheath 20 that allows good sliding

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capability so that the lace can be protected yet still slide when needed to loosen the boot. Therefore, it would have been obvious to place a channel, such as that taught by Berger '331, on the boot of the references as applied in paragraph 3 above, to protect the lace from being cut during use while still allowing the lace to freely slide to be able to open the boot up for entry of the user's foot.

6. Claims 10-11 and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied in paragraph 3 above in view of Aufnacker 3,221,384. The references as applied in paragraph 3 above disclose all the limitations of the claims except for the lace guides having generally C-shaped guiding surfaces and that at least one of the guides comprises at least a partially closed guide that is adapted to capture the lace and prevent the lace from dislodging from the guide when tension in the lace is relieved. Aufnacker '284 teaches that lace guides 4 can have C-shaped guiding surfaces (inside surface of 8, see Figures 3 and 6) that allow for the lace to glide in the guide and lace up the boot. Aufnacker also teaches that the guides can be partially closed (see Figures 2-6) to capture the lace and prevent the lace from dislodging from the guide. Therefore, it would have been obvious to place lace guides, such as those taught by Aufnacker '384, on the boot of the references as applied in paragraph 3 above, to allow for the lace to be guided in a particular direction without preventing sliding movement of the lace and to have the guides have a partially closed portion that will prevent the lace from dislodging from the guide during use.

7. Claims 12 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 11 and 37 above in view of Maurer 6,119,318. The references as applied to claims 11 and 37 above disclose all the limitations of the claims except for one of the guides comprising an open guide that is adapted to permit the lace to dislodge from the guide when tension in the lace is relieved. Maurer '318 teaches that a lace guide can be made to hold a lace to prevent the lace from loosening and also to allow for the lace to dislodge and allow for the shoe to loosen for removal. Therefore, it would have been obvious, to one of ordinary skill in the art at the time the invention was made, to make some of

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the lace guides of the references as applied to claims 11 and 37 above like those of Maurer '318 to allow for the lace to be loosened for boot removal.

1. Claims 13, 16-21, 39, 42-47, 188-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1, 12, 27, 38 and 182 above in view of Veylupek 5,755,044. The references as applied to claims 1, 12, 27, 38 and 182 above disclose all the limitations of the claims except for those limitations regarding the release strap, handles and pocket. Veylupek '044 teaches that a release strap 18a, 18b can be attached to the laces to aid in releasing the lace from the guides to aid in tightening or loosening the lace about the boot. Furthermore, Veylupek '044 teaches that handles 52a, 52 b can be attached to the laces to aid in tightening and loosening the laces as well as to aid in securing the laces to the boot. The handles are fastened to the shoe upper in a pocket (area 50), which is defined by the lower wall and the hook and loop area (see Figure 10). These handles are fastened to the boot body by hook and loop means 24. The pocket 50 is an elongated slot disposed in a wall of the boot body (see Figure 10) at the upper region and extends vertically (i.e. extends from sole to opening). Therefore, it would have been obvious to fasten handles, by release strap, to the lace of the references as applied to claims 1, 12, 27, 38 and 182 above, as taught by Veylupek '044, to allow for the laces to be easily tightened and held to the upper of the boot preventing unwanted loosening of the laces without removing the handles from the boot first.

2. Claims 14 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 27 above in view of Adams 4,622,763. The references as applied to claims 1 and 27 above disclose all the limitations of the claims except for the first and second laces being laced in a lacing pattern characterized in that the lace follows a meandering path and does not cross over itself. Admas'76 teaches that, when tying a shoe, the lace can be threaded in a meandering path that does not allow the lace to cross over itself (see Figure 1) and still tighten the boot to the user's foot. Therefore, it would have been obvious, to one of ordinary skill in the art at the time the invention was made, to lace the

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boot of the references as applied to claims 1 and 27 above in any fashion that would tighten the boot to the user's foot at the desired tension, even the meandering path as shown in Figure 1 of Adams '763.

3. Claim 26 and 195 are rejected under 35 U.S.C. 103(a) as being obvious over the references as applied to claims 1 and 182 above. Since the boot of the references as applied to claims 1 and 182 above can be fastened to a snowboard using many of the known bindings for attaching user's shoes to a snowboard, the references as applied to claims 1 and 182 above can be considered a snowboard boot. Therefore, it would have been obvious to attach the boot of the references as applied to claims 1 and 182 above to a snowboard using one of the well-known bindings used to attach shoes to snowboards.

4. Claims 127-128 and 136 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied in paragraph 4 above in view of Aufnacker 3,221,384 and Veylupek 5,755,044. The references as applied in paragraph 4 disclose all the limitations of the claims except for the lace guides and the guides having a hook and a release strap attached to the second lace to allow for being graspable and removing the second lace from the hook to create slack in the lace. Aufnacker '384 teaches that lace guides 4 can have C-shaped hook guiding surfaces (inside surface of 8, see Figures 3 and 6) that allow for the lace to glide in the guide and lace up the boot while still allowing for the lace to be removed from the guide to slacken up the lace to allow for removal of the boot. Therefore, it would have been obvious to place lace guides, such as those taught by Aufnacker'384, on the boot of the references as applied in paragraph 4 above, to allow for the lace to be guided in a particular direction without preventing sliding movement of the lace and to allow the lace from being able to be removed from the guide to slacken the lace for removal of the boot. Veylupek'044 teaches that a release strap 18a, 18b can be attached to the laces to aid in releasing the lace from the lace guides to aid in tightening or loosening the lace about the shoe. Therefore, it would have been obvious to place a release strap, such as that taught by Veylupek '044, on the lace of the references as applied above, to allow for the laces to be easily grasped and released from the guides for loosening of and removal of the boot.



***Allowable Subject Matter***

5. Claims 24, 50, 129-130, 132-133, 193 and 197-198 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 137-181 are allowed over the prior art of record.

***Response to Arguments***

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

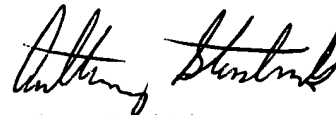
8. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Stashick whose telephone number is 571-272-4561. The examiner can normally be reached on Monday-Thursday 8:30 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Anthony Stashick  
Primary Examiner  
Art Unit 3728

ADS